

FOURTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

8 JUN -5 P3:39

SENATE
S.B. No. 2380

RECEIVED BY: 

Introduced by Senator Francis N. Pangilinan

EXPLANATORY NOTE

The fundamental law of the land clearly mandates the protection and nurturing of children, recognizing that they are an indispensable part of the “Filipino family” which in turn is the foundation of the nation. Article 15 Section 3, par. 2 of the 1987 Constitution states –

“Section 3. The State shall defend:

“Par. 2 - The right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development.”

Giving life to this imperative command of the constitution, among other laws, the Republic Act 9344 or otherwise known as the “Juvenile Justice and Welfare Act of 2006” (JJWA of 2006), with unusual unanimity from our political leaders, was passed by the Philippine Congress. The support that the JJWA had acquired in both houses of congress is testament to the realization that there is an urgent need to protect our youthful offenders from the hazards and unresponsive judicial and penal practices in our jurisdiction.

The concept employed in the JJWA of 2006 is far-removed from the traditional form and system of dispensation of justice and punishment. The law adopts the spirit of “restorative justice”, that is, the main aim of the law is not to punish our youthful offenders but to device a way to reintegrate the erring juvenile individual back into our society as a responsible, valuable and reformed person.

The salient features of the JJWA of 2006 are:

- adoption of the concept of restorative justice;
- increasing the age of criminal responsibility from nine to 15 years of age;
- establishment and strengthening of local councils for the protection of children;
- establishment of comprehensive juvenile intervention programmes;
- establishment of community-based programmes on juvenile justice and welfare;
- adoption of a system of diversion – diversion is defined as any act with the end goal of disposing the case involving a youth offender without resorting to formal trial by the competent authority
- implementation of diversion programmes exemption of minors from prosecution for the crime of vagrancy and prostitution, mendicancy, and sniffing of rugby;

- exemption from the application of death penalty;
- provision on status offenses which means that any conduct not considered an offense or not penalized if committed by an adult shall not be considered an offense and shall not be punished if committed by a child;
- provision for child-sensitive proceedings; and,
- imposition of appropriate disposition measures.

The search for the ideal judicial measures to be employed to Children in Conflict with Law (“CICL”) is a continuous task for the legislative branch as it is also an unending challenge to the executive and judicial branches to implement. Accordingly, barely two years after the enactment of the JJWA of 2006, this present bill is promptly filed to address the legitimate concerns and realities confronted by the different sectors of our government implementing the provisions of the JJWA of 2006 and ultimately to make the law more responsive to the actual needs and concerns of its main beneficiary - the CICLs.

In view of the foregoing, the approval of this bill is earnestly sought.




FRANCIS "KIKO" N. PANGILINAN

FOURTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

8 JUN -5 P3:39

SENATE
S.B. No. **2380**

RECEIVED BY: 

Introduced by Senator Francis N. Pangilinan

AN ACT
AMENDING REPUBLIC ACT NO. 9344
OTHERWISE KNOWN AS "AN ACT
ESTABLISHING A COMPREHENSIVE JUVENILE
JUSTICE AND WELFARE SYSTEM, CREATING
THE JUVENILE JUSTICE AND WELFARE
COUNCIL UNDER THE DEPARTMENT OF
JUSTICE, APPROPRIATING FUNDS THEREFOR,
AND FOR OTHER PURPOSES"

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

1 Section 1: Section 6 of Republic Act No. 9344 is hereby amended to read as
2 follows:

3 **SEC. 6. *Minimum Age of Criminal Responsibility.*** - A child fifteen (15)
4 years of age or under at the time of the commission of the offense shall be exempt
5 from criminal liability. However, the child shall be subjected to an intervention
6 program pursuant to Section 20 of this Act.

7 **A CHILD IS DEEMED TO BE FIFTEEN (15) YEARS OF AGE ON**
8 **THE DAY OF THE FIFTEENTH ANNIVERSARY OF HIS BIRTH DATE.**

9 A child above fifteen (15) years but below eighteen (18) years of age shall
10 likewise be exempt from criminal liability and be subjected to an intervention
11 program, unless he/she has acted with discernment, in which case, such child shall
12 be subjected to the appropriate proceedings in accordance with this Act.

13 The exemption from criminal liability herein established does not include
14 exemption from civil liability, which shall be enforced in accordance with
15 existing laws.

1 Sec. 2: Section 8 of Republic Act No. 9344 is hereby amended to read as
2 follows:

3 SEC. 8. *Juvenile Justice and Welfare Council (JJWC)*. - A Juvenile Justice
4 and Welfare Council (JJWC) is hereby created and attached to the Department of
5 Justice and placed under its administrative supervision. The JJWC shall be
6 chaired by an undersecretary of the Department of Social Welfare and
7 Development. It shall ensure the effective implementation of this Act and
8 coordination among the following agencies:

- 9 (a) Council for the Welfare of Children (CWC);
- 10 (b) Department of Education (DepEd);
- 11 (c) Department of the Interior and Local Government (DILG);
- 12 (d) Public Attorney's Office (PAO);
- 13 (e) Bureau of Corrections (BUCOR);
- 14 (f) Parole and Probation Administration (PPA);
- 15 (g) National Bureau of Investigation (NBI);
- 16 (h) Philippine National Police (PNP);.
- 17 (i) Bureau of Jail Management and Penology (BJMP);
- 18 (i) Commission on Human Rights (CHR);
- 19 (k) Technical Education and Skills Development Authority (TESDA);
- 20 (l) National Youth Commission (NYC); and
- 21 (m) Other institutions focused on juvenile justice and intervention programs.

22 The JJWC shall be composed of representatives, whose ranks shall not be
23 lower than director, to be designated by the concerned heads of the following
24 departments or agencies:

- 25 (a) Department of Justice (DOJ);
- 26 (b) Department of Social Welfare and Development (DSWD);
- 27 (c) Council for the Welfare of Children (CWC)
- 28 (d) Department of Education (DepEd);
- 29 (e) Department of the Interior and Local Government (DILG);

1 (f) Commission on Human Rights (CHR);

2 (g) National Youth Commission (NYC); and

3 (h) Two (2) representatives from NGOs, one to be designated by the Secretary of
4 Justice and the other to be designated by the Secretary of Social Welfare and
5 Development.

6 The JJWC shall convene within fifteen (15) days from the effectivity of
7 this Act. The Secretary of Justice and the Secretary of Social Welfare and
8 Development shall determine the organizational structure and staffing pattern of
9 the JJWC.

10 **IN THE IMPLEMENTATION OF THIS ACT, THE JJWC SHALL**
11 **CONSULT WITH THE VARIOUS LEAGUES OF LOCAL**
12 **GOVERNMENT OFFICIALS.**

13 The JJWC shall coordinate with the Office of the Court Administrator and
14 the Philippine Judicial Academy to ensure the realization of its mandate and the
15 proper discharge of its duties and functions, as herein provided.

16 Sec. 3: Section 20 of Republic Act No. 9344 is hereby amended to read as
17 follows:

18 **SEC. 20. *Children Below the Age of Criminal Responsibility.*** - If it has
19 been determined that the child taken into custody is fifteen (15) years old or
20 below, the authority which will have an initial contact with the child, **IN**
21 **CONSULTATION WITH THE LOCAL SOCIAL WELFARE AND**
22 **DEVELOPMENT OFFICER**, has the duty to immediately release the child to
23 the custody of his/her parents or guardian, or in the absence thereof, the child's
24 nearest relative, **UNLESS THE BEST INTEREST OF THE CHILD**
25 **REQUIRES THE REFERRAL OF THE CHILD TO A YOUTH**
26 **REHABILITATION CENTER.** [Said authority shall give notice to t] The local

1 social welfare and development officer [who will] **SHALL** determine the
2 appropriate programs **FOR THE CHILD WHO HAD BEEN RELEASED**, in
3 consultation with the child and [to] the person having custody over the child. If
4 the parents, guardians or nearest relatives cannot be located, or if they refuse to
5 take custody, the child may be released to any of the following:

6 **(1)** a duly registered nongovernmental or religious organization;

7 **(2)** a barangay official or a member of the Barangay Council for the Protection of
8 Children (BCPC);

9 **(3)** a local social welfare and development officer; or when and where
10 appropriate, the DSWD.

11 [If the child referred to herein has been found by the Local Social Welfare and
12 Development Office to be abandoned, neglected or abused by his parents, or in
13 the event that the parents will not comply with the prevention program,] **IF THE**
14 **BEST INTEREST OF THE CHILD REQUIRES THAT HE OR SHE BE**
15 **PLACED IN A YOUTH REHABILITATION CENTER, THE CHILD'S**
16 **PARENTS OR GUARDIANS SHALL EXECUTE A WRITTEN**
17 **AUTHORIZATION FOR THE VOLUNTARY COMMITMENT OF THE**
18 **CHILD; PROVIDED, THAT IF THE CHILD HAS NO PARENTS OR**
19 **GUARDIANS OR IF THEY REFUSE OR FAIL TO EXECUTE THE**
20 **WRITTEN AUTHORIZATION FOR VOLUNTARY COMMITMENT,** the
21 proper petition for involuntary commitment shall be **IMMEDIATELY** filed by
22 the DSWD or the Local Social Welfare and Development Office pursuant to
23 Presidential Decree No. 603, **AS AMENDED**, otherwise known as "The Child
24 and Youth Welfare Code" **AND THE SUPREME COURT RULE ON**
25 **COMMITMENT OF CHILDREN; PROVIDED FURTHER, THAT THE**
26 **MINIMUM AGE FOR CHILDREN COMMITTED TO A YOUTH**
27 **REHABILITATION CENTER SHALL BE TWELVE (12) YEARS OLD.**

1 **SEC. 20-A. REPETITION OF OFFENSES. --** A CHILD WHO IS
2 FIFTEEN YEARS OF AGE OR BELOW FIFTEEN (15) YEARS OF AGE
3 AND WHO COMMITS AN OFFENSE FOR THE THIRD TIME OR
4 OFTENER SHALL BE DEEMED A NEGLECTED CHILD UNDER
5 PRESIDENTIAL DECREE NO. 603, AS AMENDED, AND SHALL
6 UNDERGO INTERVENTION PROGRAMS SUPERVISED BY THE
7 LOCAL SOCIAL WELFARE AND DEVELOPMENT OFFICER;
8 PROVIDED THAT, IF THE BEST INTEREST OF THE CHILD
9 REQUIRES THAT HE OR SHE BE PLACED IN A YOUTH
10 REHABILITATION CENTER, THE CHILD'S PARENTS OR
11 GUARDIANS SHALL EXECUTE A WRITTEN AUTHORIZATION FOR
12 THE VOLUNTARY COMMITMENT OF THE CHILD; PROVIDED,
13 THAT IF THE CHILD HAS NO PARENTS OR GUARDIANS OR IF
14 THEY REFUSE OR FAIL TO EXECUTE THE WRITTEN
15 AUTHORIZATION FOR VOLUNTARY COMMITMENT, THE PROPER
16 PETITION FOR INVOLUNTARY COMMITMENT SHALL BE
17 IMMEDIATELY FILED BY THE DSWD OR THE LOCAL SOCIAL
18 WELFARE AND DEVELOPMENT OFFICE PURSUANT TO
19 PRESIDENTIAL DECREE NO. 603, AS AMENDED, AND THE
20 SUPREME COURT RULE ON COMMITMENT OF CHILDREN;
21 PROVIDED FURTHER, THAT THE MINIMUM AGE FOR CHILDREN
22 COMMITTED TO A YOUTH REHABILITATION CENTER SHALL BE
23 TWELVE (12) YEARS OLD.

24 **SEC. 20-B. HEINOUS CRIMES COMMITTED BY CHILDREN WHO**
25 **ARE EXEMPT. --** A CHILD WHO IS FIFTEEN YEARS OF AGE OR
26 BELOW FIFTEEN (15) YEARS OF AGE AND WHO COMMITS A
27 PARRICIDE, MURDER, INFANTICIDE, KIDNAPPING AND SERIOUS
28 ILLEGAL DETENTION WHERE THE VICTIM IS KILLED OR RAPED,

1 ROBBERY WITH HOMICIDE OR RAPE, DESTRUCTIVE ARSON,
2 RAPE, OR CARNAPPING WHERE THE DRIVER OR OCCUPANT IS
3 KILLED OR RAPED SHALL BE DEEMED A NEGLECTED CHILD
4 UNDER PRESIDENTIAL DECREE NO. 603, AS AMENDED, AND, IF THE
5 BEST INTEREST OF THE CHILD SO REQUIRES, SHALL BE PLACED
6 IN A YOUTH REHABILITATION CENTER. THE CHILD'S PARENTS
7 OR GUARDIANS SHALL EXECUTE A WRITTEN AUTHORIZATION
8 FOR THE VOLUNTARY COMMITMENT OF THE CHILD; PROVIDED,
9 THAT IF THE CHILD HAS NO PARENTS OR GUARDIANS OR IF
10 THEY REFUSE OR FAIL TO EXECUTE THE WRITTEN
11 AUTHORIZATION FOR VOLUNTARY COMMITMENT, THE PROPER
12 PETITION FOR INVOLUNTARY COMMITMENT SHALL BE
13 IMMEDIATELY FILED BY THE DSWD OR THE LOCAL SOCIAL
14 WELFARE AND DEVELOPMENT OFFICE PURSUANT TO
15 PRESIDENTIAL DECREE NO. 603, AS AMENDED, AND THE
16 SUPREME COURT RULE ON COMMITMENT OF CHILDREN;
17 PROVIDED FURTHER, THAT THE MINIMUM AGE FOR CHILDREN
18 COMMITTED TO A YOUTH REHABILITATION CENTER SHALL BE
19 TWELVE (12) YEARS OLD.

20 SEC. 20-C. *EXPLOITATION OF CHILDREN FOR COMMISSION*
21 *OF CRIMES.* -- ANY PERSON WHO, IN THE COMMISSION OF A
22 CRIME, MAKES USE, TAKES ADVANTAGE OF, OR PROFITED FROM
23 THE USE OF CHILDREN, SHALL BE IMPOSED THE PENALTY
24 PRESCRIBED BY LAW FOR THE CRIME COMMITTED IN ITS
25 MAXIMUM PERIOD.

26 SEC. 20-D. *ASSISTANCE TO VICTIMS OF OFFENSES*
27 *COMMITTED BY CHILDREN.* -- IF THE VICTIM OF THE OFFENSE
28 COMMITTED BY A CHILD IS ALSO A CHILD, THE APPROPRIATE

1 ASSISTANCE AND PSYCHOSOCIAL INTERVENTION SHALL BE
2 PROVIDED TO THE VICTIM-CHILD AND HIS OR HER FAMILY BY
3 THE LOCAL SOCIAL WELFARE AND DEVELOPMENT OFFICER AND
4 THE DEPARTMENT OF SOCIAL WELFARE AND DEVELOPMENT, AS
5 PROVIDED IN REPUBLIC ACT NO. 7610, OTHERWISE KNOWN AS
6 THE "SPECIAL PROTECTION OF CHILDREN AGAINST CHILD
7 ABUSE, EXPLOITATION AND DISCRIMINATION ACT" AND ITS
8 IMPLEMENTING RULES AND REGULATIONS.

9 Sec. 4: Section 22 of Republic Act No. 9344 is hereby amended to
10 read as follows:

11 **SEC. 22. Duties During Initial Investigation.** - The law enforcement
12 officer shall, in his/her investigation, determine where the case involving the child
13 in conflict with the law should be referred.

14 The taking of the statement of the child shall be conducted in the presence
15 of the following: (1) child's counsel of choice or in the absence thereof, a lawyer
16 from the Public Attorney's Office; (2) the child's parents, guardian, or nearest
17 relative, as the case may be; and (3) the local social welfare and development
18 officer. In the absence of the child's parents, guardian, or nearest relative, and the
19 local social welfare and development officer, the investigation shall be conducted
20 in the presence of a representative of an NGO, religious group, or member of the
21 BCPC.

22 **THE SOCIAL WORKER SHALL CONDUCT AN INITIAL**
23 **ASSESSMENT TO DETERMINE THE APPROPRIATE**
24 **INTERVENTIONS AND WHETHER THE CHILD ACTED WITH**
25 **DISCERNMENT, USING THE ASSESSMENT TOOLS DEVELOPED BY**
26 **THE DEPARTMENT OF SOCIAL WELFARE AND DEVELOPMENT.**
27 **THE INITIAL ASSESSMENT SHALL BE WITHOUT PREJUDICE TO**

1 **THE PREPARATION OF A MORE COMPREHENSIVE CASE STUDY**
2 **REPORT.** [After the initial investigation, t] The local social worker [conducting
3 the same may] **SHALL** do either of the following:

- 4 a) Proceed in accordance with Section 20 if the child is fifteen (15)
5 years or below or above fifteen (15) but below eighteen (18)
6 years old, who acted without discernment; and
7 b) (b) If the child is above fifteen (15) years old but below eighteen
8 (18) and who acted with discernment, proceed to diversion
9 under the following chapter.

10 Sec. 5: Section 33 of Republic Act No. 9344 is hereby amended to read as
11 follows:

12 **SEC. 33. Preliminary Investigation and Filing of Information.** - The
13 prosecutor shall conduct a preliminary investigation in the following instances: (a)
14 when the child in conflict with the law does not qualify for diversion: (b) when
15 the child, his/her parents or guardian does not agree to diversion as specified in
16 Sections 27 and 28; and (c) when considering the assessment and
17 recommendation of the social worker, the prosecutor determines that diversion is
18 not appropriate for the child in conflict with the law.

19 Upon serving the subpoena and the affidavit of complaint, the prosecutor
20 shall notify the Public Attorney's Office of such service, as well as the personal
21 information, and place of detention of the child in conflict with the law.

22 Upon determination of probable cause by the prosecutor, the information
23 against the child shall be filed before the Family Court within forty-five (45) days
24 from the start of the preliminary investigation. **THE INFORMATION MUST**
25 **ALLEGE THAT THE CHILD ACTED WITH DISCERNMENT.**

1 Sec. 6: Section 57 of Republic Act No. 9344 is hereby amended to read as
2 follows:

3 SEC. 57. *Status Offenses.* - Any conduct not considered an offense or not
4 penalized if committed by an adult shall not be considered an offense and shall
5 not be punished if committed by a child.

6 **CURFEW ORDINANCES ENACTED BY LOCAL**
7 **GOVERNMENTS SHALL BE FOR THE PROTECTION OF CHILDREN.**
8 **NO PENALTY SHALL BE IMPOSED ON CHILDREN FOR CURFEW**
9 **VIOLATIONS. INSTEAD THE CHILD SHALL BE BROUGHT TO HIS**
10 **OR HER RESIDENCE OR TO THE BARANGAY HALL TO BE**
11 **FETCHED BY HIS OR HER PARENTS. THE ORDINANCE SHALL**
12 **ALSO PROVIDE FOR INTERVENTION PROGRAMS, SUCH AS**
13 **COUNSELLING, ATTENDANCE IN GROUP ACTIVITIES FOR**
14 **CHILDREN, AND, FOR THE PARENTS, ATTENDANCE IN**
15 **PARENTING EDUCATION SEMINARS.**

16 Sec. 7: *Separability Clause.* – If any provision of this Act is declared invalid or
17 unconstitutional, the provisions not affected thereby shall continue to be in full force and
18 effect.

19 Sec. 8: *Repealing Clause.* – All laws, decrees or rules inconsistent with the
20 provisions of this Act are hereby repealed or modified accordingly.

21 Sec. 9: *Effectivity Clause* – This Act shall take effect fifteen (15) days after the
22 completion of its publication in at least two (2) national newspapers of general circulation.

Approved,